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VIA ECF

The Honorable Harry D. Leinenweber
U.S. District Court for the Northern District of Illinois
219 S. Dearborn, Courtroom 1834
Chicago, IL 60604-1706

RE: *Wallrich et al. v. Samsung Electronics America, Inc. et al.*, Case No. 1:22-cv-05506
Notice of Supplemental Authority

Dear Judge Leinenweber:

After the Petitioners filed their opposition to Samsung Electronics America, Inc.'s and Samsung Electronics Co., Ltd.'s (collectively "Samsung") motion to dismiss (hereinafter "Petitioners' Opposition") (ECF No. 36), the Supreme Court of Illinois issued a decision on February 17, 2023, in *Cothron v. White Castle Sys., Inc.*, 2023 IL 128004, 2023 WL 2052410 (Ill., 2023), holding that a separate claim accrues under Illinois' Biometric Information Privacy Act ("BIPA") "each time a private entity scans or transmits an individual's biometric identifier or information in violation of section 15(b) and 15(d)." *See id.* *1 (emphasis added). Therefore, BIPA allows for a new and separate accrual of a claim each time a plaintiff uploads a picture entitling the plaintiff to recover \$1,000 or \$5,000 for each separate BIPA violation.

A copy of the Illinois Supreme Court decision in *Cothron* is attached as **Exhibit A**. Pursuant to Rule 28(j), Petitioners respectfully submit this decision in support of their argument that each Petitioner's claim exceeds the jurisdictional minimum (\$75,000) because each Petitioner will seek the full amount of damages allowable under BIPA, including statutory damages of \$5,000 for every scan of biometric data collected by Samsung in violation of Section 14/15. *See* Petitioners' Opposition (ECF No. 36 at 24-25); Petition to Compel Arbitration ("Petition") (ECF No. 1 at ¶ 28) ("Petitioners are purchasers of Samsung's Devices who have taken photographs of themselves using their Samsung Device, including photographs of their faces and other physical attributes").¹

¹ *See also*, Petition, Ex. J (ECF No. 1-11 at ¶ 56, fn.32) ("The Gallery app is the perfect place to organize all of your videos and photos. Everything you capture from the camera on your phone will automatically be saved to the gallery, but you can also add in or download photos so that you can store all of your memories in the same place."); *Id.* (ECF No. 1-11 at ¶ 58) ("...through its Gallery App, Samsung creates



Notice of Supplemental Authority
March 8, 2023
Page 2

Very truly yours,

/s/ Jonathan Gardner

a unique face template for every face detected in the photographs stored on the user's Samsung Device. This is an automated process that occurs without the user's involvement or consent whenever a new photograph is stored on a Samsung Device...").